



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, COUNCIL #68

Complainant

v.

CHESHIRE COUNTY COMMISSIONERS AND
RICHARD WILSON, ADMINISTRATOR OF
CHESHIRE COUNTY NURSING HOME

Respondent

CASE NO. A-0503

DECISION NO. 84-83

APPEARANCES

Representing American Federation of State, County
and Municipal Employees

Jeanne Moulton-Green
Gary Foster

Representing Cheshire County

Anne Morrill, Esq.

Also in Attendance

Martha R. Crocker, Esq.
Jeff Blake, N.H. Times
Richard A. Wilson, Administrator

BACKGROUND

AFSCME Council 68 began an organizing drive at the Cheshire County Nursing Home on April 30, 1984.

On May 9th, 1984 AFSCME filed two petitions with the PELRB with identical explanations. One petition asked for an immediate cease and desist order to issue against Nursing Home Administrator Wilson because he had caused the removal (by police) of a union organizer from in front of the nursing home, thereby violating RSA 273-A:5, I (a) and (b). The County denied violations of 273-A.

On May 10, 1984 PELRB did issue a cease and desist order stipulating that the union must have limited access to "...public places such as parking lots, walkways, etc. as well as to internal bulletin boards...." and ordered a hearing on all charges on May 18, 1984.

At the hearing on May 18, 1984, the County argued that the no solicitation policy in effect barred the union organizers from entering the premises and argued that the union organizers had no rights to the County premises simply because it was supported by tax dollars. The County further argued that it had a duty to protect its patients from being bothered, confused, etc. and this meant that union organizers must be well away from the building and facility itself. The County further established that the union organizers had since been inside the foyer of the building and argued that this was in violation of the PELRB's cease and desist order. The union maintained it was guaranteed "limited access" under RSA 273-A:5, I (a) and (b) prohibiting employers from interfering with the "...employees in the exercise of the rights conferred by this chapter".

At the close of the May 18th, 1984 hearing, PELRB issued a continuation of the cease and desist order in effect but modified the order to include "...limiting access to the parking lot and walkway leading to the building only...." (emphasis added) and ordering no interference with patients whatsoever.

On June 5, 1984, AFSCME Council 68 again filed a petition asking for a cease and desist order against the County and its agents at the nursing home and charging unfair labor practices, claiming that the nursing home administrator was "intimidating" the employees by observing them in the proximity of the union organizer distributing leaflets and also that union materials were removed from the bulletin boards while anti-union material was not. The County responded by requesting a rehearing on the May 18, 1984 decision. The PELRB ordered an emergency hearing on June 7th on all charges.

At the June 7, 1984 hearing, PELRB heard testimony and received documents and issued its decision to dismiss the request for a second cease and desist order, leaving the first cease and desist order in force, allowing, non employees, "limited access to the parking lot and walkway leading to the building only, etc."

The PELRB never ruled on the first or second petition alleging unfair labor practices. It is the purpose of this decision to do so and thereby make the record complete.

FINDINGS OF FACT AND RULINGS OF LAW

It was the contention of the May 9, 1984 petition alleging unfair labor practices contrary to RSA 273-A:5, I (a) and (b) that access to the Cheshire County Nursing Home was being denied by Administrator Wilson. PELRB found that this was in fact the case and ordered Mr. Wilson to stop and further ordered the County and Mr. Wilson to allow "limited access" to the facility by union organizers. It could be argued that PELRB by logical extension, found the County guilty of unfair labor practices in denying union access to at least part of the facility.

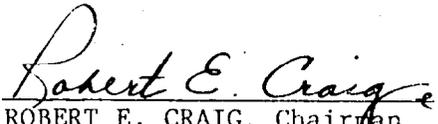
Subsequently, on May 18th, PELRB limited the union access, excluding within premises electioneering and reaffirming the original requirement of "limited access". Some might argue that the union had thus committed an unfair labor practice by entering the nursing home to continue their organizing.

On June 7th, the PELRB dismissed the request for a cease and desist order, in effect also dismissing the unfair labor practice complaint.

DECISION AND ORDER

PELRB, having reaffirmed that certain minimum or "limited" access must be allowed non-employees during pre-election organizational drives, can find no useful purpose served for findings of unfair labor practices at a time so far removed from the actual events and with the existing record, therefore orders:

That the petitions filed relative to unfair labor practices in this case be, and hereby are dismissed.


ROBERT E. CRAIG, Chairman

Signed this 21st day of November, 1984.

By unanimous vote. Chairman Robert E. Craig presiding. Members Seymour Osman and Russell Verney present and voting. Also present, Evelyn C. LeBrun, Executive Director.